

# Notice of Allowability

Application No.

10/574,428

Examiner

Ruth C. Rodriguez

Applicant(s)

FUKUYASU ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed on 07 November 2007.

2. ☒ The allowed claim(s) is/are 1-5.

3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 11/14/2007

4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.

7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_.

## **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

For claim 1, Kincel et al. discloses a ribbon-shaped nonmetallic twist tie has a core part and a wing part constituted from a non-halogenous material (C. 5, L. 17-67 and C. 6, L. 1-46). The core part and the wing part each extend a length of the tie. The twist tie has a total width of 1.5 to 20.0 mm, a maximum thickness of the wing part of 0.02 to 0.20 mm and a maximum thickness of the core part of 0.04 to 0.3 mm (C. 7, L. 59-64, and C. 8, L. 118-243-17 and 41-45). A property of retaining a fixed shape of 95 percent or less (when the twist tie is being twisted it does not retain its original fixed shape or the fixed shape can be taken as the twisted tie after being twisting and the retention of 95 percent or less is determined from the additional deformation that the twist tie will experience after being released by the user until the tie settles). Contreras et al. also discloses a ribbon-shaped nonmetallic twist tie has a core part and a wing part constituted from a non-halogenous material (C. 4, L. 37-60 and C. 5, L. 13-17). The core part and the wing part each extend a length of the tie. The twist tie has a total width of 1.5 to 20.0 mm, a maximum thickness of the wing part of 0.02 to 0.20 mm and a maximum thickness of the core part of 0.04 to 0.3 fold of the total width (C. 5, L. 33-41). A property of retaining a fixed shape of 95 percent or less (when the twist tie is being twisted it does not retain its original fixed shape or the fixed shape can be taken as the twisted tie after being twisting and the retention of 95 percent or less is determined from the additional deformation that the twist tie will experience after being

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released by the user until the tie settles). Both Kincel and Contreras fail to disclose that the property of retaining a fixed shape is determined by preparing a sample tie having two ends and a length of 80 mm, marking lines M a predetermined distance apart at the central portion of the sample tie, bending the sample tie to align the ends of the sample tie and to align the marked lines M, applying 80 g load at the marked lines M, removing the load, determining a straight line distance I2 between the marked lines M, immediately after removing the load, determining a straight line distance I3 between the marked lines M two minutes apart after removing the load and determining the property of retaining a fixed shape R, where  $R = (1 - (I3 - I2) / (I3)) * 100$ . Accordingly, it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have the property of retaining a fixed shape of 95 % or less by using the method of determining the property of retaining a fixed shape with the steps being claimed since the prior art of record fails to anticipate or suggest this method to determine the property of retaining a fixed shape of 95% or less.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/  
Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

/James Brittain/  
Primary Examiner  
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rcr  
December 10, 2007